



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Patricia C. Orrock
Chief Compliance Officer
May 25, 2018

Thomas E. Hintermister
Assistant Staff Director
Audit Division

FROM: Erin Chlopak *EC*
Acting Associate General Counsel
for Policy

Lorenzo Holloway *LH by JW*
Assistant General Counsel
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Attorney

SUBJECT: Draft Final Audit Report on O'Malley for President (LRA 1007)

The Office of General Counsel ("OGC") has reviewed the Draft Final Audit Report ("DFAR") on O'Malley for President ("Committee"). The DFAR contains five findings: Net Outstanding Campaign Obligations (Finding 1), Amounts Owed to the U.S. Treasury (Finding 2), Failure to Itemize Offsets to Expenditures (Finding 3), Reporting of Debts and Obligations (Finding 4), and Stale-Dated Checks (Finding 5). We concur with the findings but have additional comments regarding Finding 2. If you have any questions, please contact Jennifer Waldman, the attorney assigned to this audit.

Finding 2 in the DFAR notes that the Committee does not owe a repayment to the United States Treasury. The Audit Division reached the same conclusion in the Preliminary Audit Report ("PAR"). To provide additional legal support for Finding 2 in the DFAR, we recommend

that the Audit Division attach our comments on the PAR. In our comments on the PAR, we explain the legal basis supporting the conclusion that the Committee does not owe a repayment.

Although the preliminary audit report may include calculations regarding future repayments, 11 C.F.R. § 9038.1(c)(1)(iii), the final audit report serves as the legal notification of any repayment determination made by the Commission. 11 C.F.R. § 9038.2(a)(2). Therefore, while the conclusion that the Committee does not owe a repayment remains the same between the PAR and the DFAR, the DFAR triggers the repayment process, and it must include the legal basis for the Commission's repayment determination. 11 C.F.R. § 9038.2(c)(1). We, therefore, incorporate our comments on the PAR by reference here and, we recommend that the Audit Division attach our comments on the PAR to the DFAR.

The DFAR does not include an explicit recommendation that the Commission determine that no repayment is owed to the United States Treasury. Since a determination that no repayment is owed is still a determination, we recommend that the Audit Division revise the DFAR to include this recommendation.